

**ALASKA STATE LEGISLATURE**  
**HOUSE JUDICIARY STANDING COMMITTEE**

April 12, 2023

1:05 p.m.

**MEMBERS PRESENT**

Representative Sarah Vance, Chair  
Representative Jamie Allard, Vice Chair  
Representative Ben Carpenter  
Representative Craig Johnson  
Representative David Eastman  
Representative Andrew Gray  
Representative Cliff Groh

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 68

"An Act relating to sex trafficking; establishing the crime of patron of a victim of sex trafficking; relating to the crime of human trafficking; relating to prostitution; relating to sentencing for sex trafficking, patron of a victim of sex trafficking, and human trafficking; establishing the process for vacating judgments for certain convictions of prostitution and misconduct involving a controlled substance; relating to the Council on Domestic Violence and Sexual Assault; relating to permanent fund dividends for certain individuals whose convictions are vacated; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 68

SHORT TITLE: CRIME OF SEX/HUMAN TRAFFICKING

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/08/23	(H)	READ THE FIRST TIME - REFERRALS
02/08/23	(H)	JUD, FIN
03/10/23	(H)	JUD AT 1:00 PM GRUENBERG 120
03/10/23	(H)	Heard & Held
03/10/23	(H)	MINUTE(JUD)
03/20/23	(H)	JUD AT 1:00 PM GRUENBERG 120

03/20/23	(H)	Heard & Held
03/20/23	(H)	MINUTE(JUD)
03/22/23	(H)	JUD AT 1:00 PM GRUENBERG 120
03/22/23	(H)	-- MEETING CANCELED --
03/24/23	(H)	JUD AT 1:00 PM GRUENBERG 120
03/24/23	(H)	Heard & Held
03/24/23	(H)	MINUTE(JUD)
03/27/23	(H)	JUD AT 1:00 PM GRUENBERG 120
03/27/23	(H)	Scheduled but Not Heard
03/31/23	(H)	JUD AT 1:00 PM GRUENBERG 120
03/31/23	(H)	Scheduled but Not Heard
04/03/23	(H)	JUD AT 1:00 PM GRUENBERG 120
04/03/23	(H)	-- MEETING CANCELED --
04/12/23	(H)	JUD AT 1:00 PM GRUENBERG 120

**WITNESS REGISTER**

JAKE ALMEIDA, Staff  
 Representative Sarah Vance  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Provided an explanation of changes in the proposed CS for HB 68, Version S, on behalf of Representative Vance.

KACI SCHROEDER, Deputy Attorney General  
 Department of Law  
 Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on the proposed CS for HB 68, Version S.

NANCY MEADE, General Council  
 The Alaska Court System  
 Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on the proposed CS for HB 68, Version S.

**ACTION NARRATIVE**

1:05:07 PM

**CHAIR SARAH VANCE** called the House Judiciary Standing Committee meeting to order at 1:05 p.m. Representatives Carpenter, C. Johnson, Gray, Groh, Allard, and Vance were present at the call to order. Representative Eastman arrived as the meeting was in progress.

**HB 68-CRIME OF SEX/HUMAN TRAFFICKING**

1:05:34 PM

CHAIR VANCE announced that the only order of business would be HOUSE BILL NO. 68, "An Act relating to sex trafficking; establishing the crime of patron of a victim of sex trafficking; relating to the crime of human trafficking; relating to prostitution; relating to sentencing for sex trafficking, patron of a victim of sex trafficking, and human trafficking; establishing the process for vacating judgments for certain convictions of prostitution and misconduct involving a controlled substance; relating to the Council on Domestic Violence and Sexual Assault; relating to permanent fund dividends for certain individuals whose convictions are vacated; and providing for an effective date."

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REPRESENTATIVE ALLARD moved to adopt the proposed committee substitute (CS) for HB 68, Version 33-GH1029\S, Radford, 4/11/23, as the working document.

REPRESENTATIVE C. JOHNSON objected for the purpose of discussion.

CHAIR VANCE invited Mr. Almeida to present an explanation of changes.

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JAKE ALMEIDA, Staff, Representative Sarah Vance, Alaska State Legislature, on behalf of Representative Vance, provided an explanation of changes [included in the committee packet] in the proposed CS for HB 68, ("Version S"), which read as follows [original punctuation provided]:

Section 4: Removes "place of prostitution" and "prostitution enterprise" from sex trafficking in the 1st degree. Raises the minor age of the victim from 20 to 21.

Section 5: Raises the minor age of the victim from 20 to 21.

Section 8: Adds new lang. to sec. 11.41.367 "...may reasonably be construed..." and adds subsection (b) to

line 20 under sec. 11.41.369. The sale of forfeited property may be used to provide resources to victims of sex trafficking.

Section 9: Consolidates both crimes of human and sex trafficking in one section.

Section 11: Separates degrees of prostitution for clarity and adds prostitution enterprise to prostitution in the first degree.

Section 12: Conforming change only.

Section 13: Adds subsection (b) The sale of forfeited property may be used to provide restitution to victims of sex trafficking.

Section 20: Revokes a defendants business license if they're convicted of any human trafficking, sex trafficking, or patron of a victim of sex trafficking charges.

Section 22: Adds prostitution in the 1st or 2nd degree to those who the court may not suspend the imposition of an entry of judgment.

Section 23: Adds prostitution in the 1st or 2nd degree to those who the court may not suspend an imposition of sentence.

Section 25: Technical and conforming changes as it corrects cross references to indecent viewing or production of pictures.

Section 26: Technical & conforming change only.

Section 29 - 32: Expands privacy protections (consistent with existing law) to victims of any sex offense and any sex trafficking offense.

Section 33: Conforming change based on section 11.

Section 35: Removes misdemeanor drug charges for the vacation of judgment provisions.

Section 36: Adds the revocation of teaching licenses from those convicted of sex trafficking offenses.

Section 45: Conforming changes consistent with the changes made in sec. 46.

Section 49 & 50: Conforming changes based on section 11.

Section 56-58: Conforming changes.

Section 59: New provision regarding the Alaska Court System's implementation of section 35.

MR. ALMEIDA noted that Section 59 was added to provide the court system with the flexibility to implement Section 35. However, after speaking with Legislative Legal Services, Section 59 would likely be removed via a forthcoming amendment, as it was not legally necessary.

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REPRESENTATIVE ALLARD asked why Section 36 and Section 20 were not inclusive of additional licenses, such as nursing licenses, whereby sex traffickers could be enticed to inflict further damage.

MR. ALMEIDA said Representative Vance shared the same concerns [as those expressed by Representative Allard]. He indicated that a future amendment would be drafted to include an itemized list of additional licenses.

REPRESENTATIVE ALLARD asked whether those changes would be made before moving the bill out of committee.

MR. ALMEIDA answered yes, there would be an additional amendment deadline for Version S.

CHAIR VANCE opined that professional licenses, specifically those involving children, should be revoked for individuals convicted of sex trafficking. She clarified that the intent was not to target teachers or characterize any one profession as traffickers; nonetheless, she said it was a "trusted responsibility" to have a professional license.

REPRESENTATIVE ALLARD highlighted daycare licenses as an important professional license to add to the provision.

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REPRESENTATIVE GRAY shared his understanding that any felony conviction must be listed on the renewal [application] of a professional license. He suspected that most professional licenses would not be renewed for a convicted sex trafficker and suggested that there may already be a path [in statute] for the denial of certain professional licenses.

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KACI SCHROEDER, Deputy Attorney General, Department of Law (DOL), acknowledged that the drafter's request [to itemize additional professional licensures] was daunting. She indicated that the preferred option would be to follow up on existing practices.

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REPRESENTATIVE EASTMAN, referring to Section 36, asked whether solicitation was a felony.

MS. SCHROEDER said it depended on the underlying offense.

REPRESENTATIVE EASTMAN directed attention to page 25, line 8, in Section 36 and asked whether there were allowances if the perpetrator was a minor.

MS. SCHROEDER attempted to clarify the question.

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REPRESENTATIVE EASTMAN asked whether a professional [teaching] license would be revoked from a convicted 19-year-old.

MS. SCHROEDER said she was unsure as to how a 19-year-old would acquire a teaching license. She said the instances of a minor obtaining a professional license was rare.

REPRESENTATIVE EASTMAN considered a scenario in which a teacher of any age was found guilty of [a trafficking case] that occurred when he/she was 20. He asked whether that individual's license would be revoked.

MS. SCHROEDER shared her understanding that, yes, the license would be revoked.

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REPRESENTATIVE GRAY directed attention to the provision on page 7, lines 12-14, which defined prostitution in the third degree. He inquired about the meaning of the language "whether the intended recipient is the person or someone else."

CHAIR VANCE explained that the intent was to capture the conduct of offering a fee in exchange for sex on behalf of another person. However, Legislative Legal Services explained that said conduct was already covered under prostitution in the third degree without the added language [on line 14].

REPRESENTATIVE GRAY inquired about the difference between prostitution in the third and fourth degree without the new language on page 7, line 14.

MS. SCHROEDER agreed that the language in question was superfluous. She explained that prostitution in the third degree, as drafted, was a person offering a fee in exchange for sex, whereas prostitution in the fourth degree was someone agreeing to engage in sexual conduct in exchange for a fee.

REPRESENTATIVE GRAY sought to confirm that buying the sex act was prostitution in the third degree, whereas selling the sex act was prostitution in the third degree.

MS. SCHOEDER confirmed.

CHAIR VANCE pointed out that the classification of prostitution in the third and fourth degree already existed in statute. She indicated that prostitution in the first and second degree were the added classifications to provide further clarification of the crime.

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MR. ALMEIDA referred to Section 11 and defined prostitution in the first through fourth degree.

REPRESENTATIVE GRAY, referring to Section 35, suggested leaving in the misdemeanor drug charges for the vacation of judgement provisions. He argued that a direct connection could be made to sex trafficking if a trafficking victim was later convicted of a drug offense. He pointed out that it may be a small number of individuals who come forward as a victim of sex trafficking to request a vacation of judgement, therefore, the system would not be overwhelmed.

CHAIR VANCE said she shared the same concern; however, she believed that the process for vacation and the fiscal analysis needed further analysis. She indicated that she removed the misdemeanor drug charges for the purpose of moving the bill forward in a timely manner.

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REPRESENTATIVE ALLARD said she shared the same concern [as Representative Gray]. She recalled testimony from the department stating that [the vacation of judgement for misdemeanor drug charges with evidence of sex trafficking] would not be a fiscal liability. She expressed concern about pushing the legislation through quickly before hashing everything out.

CHAIR VANCE reminded the committee that the bill was introduced two sessions ago. She clarified that she had concerns about the vacation of judgement process, in addition to the fiscal note. She said she wanted to ensure that individuals requesting the vacation of judgements were, indeed, trafficked, adding that the accuracy of such an assessment was unclear to her, which was why the misdemeanor drug charges were removed from Version S.

REPRESENTATIVE ALLARD agreed that "saving some lives is better than saving no lives."

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REPRESENTATIVE EASTMAN recalled that the inclusion of drug convictions was a recent addition to the bill.

CHAIR VANCE shared her understanding that the provision in question was added last year in the House Judiciary Standing Committee.

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REPRESENTATIVE GRAY requested an explanation of the fiscal note pertaining to the vacation of judgements.

CHAIR VANCE explained that there were two fiscal notes: one from the DOL and one from the Alaska Court System. She asked Ms. Schroeder to speak to DOL's fiscal note.

MS. SCHROEDER said the department's fiscal note was a zero fiscal note.

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NANCY MEADE, General Council, The Alaska Court System, confirmed that the court system's positive fiscal note was largely due to the vacation of drug convictions. She reported that the vacation of prostitution convictions alone would have resulted in a one-time temporary position costing the state \$37,000; however, with the inclusion of the drug convictions, the fiscal note reflected a cost of \$188,000 per year to account for the 20,000 potential drug cases, of which an estimated 5-10 percent may come forward [to request a vacation of judgement]. She calculated that even 500 petitions would necessitate an additional staff position for processing. She noted that there were few prostitution convictions - totaling three to ten - with a co-occurring drug conviction.

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CHAIR VANCE noted that the removal of the Council on Domestic Violence and Sexual Assault (CDVSA) from Version S was not reflected in the explanation of changes. She reasoned that the council was already at capacity and reminded the committee that the governor's council on Human and Sex Trafficking had volunteered to become the permanent [resource]. She explained that the reason the council was added in the first place was to ensure that grants and resources were distributed, reiterating that the removal of the CDVSA was to allow the council to "continue doing what they do well." A forthcoming solution would be offered to provide continued resources to trafficking victims, she said.

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REPRESENTATIVE EASTMAN referred to a provision in section 11 [Sec. 11.66.108 Persons exempt from prosecution] and questioned the purpose of paragraph (2) starting on page 8, line 23.

MS. SCHROEDER said the language was intended for a person engaging in prostitution who witnesses a serious crime. She said the provision offered immunity from prosecution for reporting an offense and cooperating with law enforcement.

REPRESENTATIVE EASTMAN considered a scenario in which 99 percent of the evidence was obtained through other means and only a "scintilla" of evidence was obtained as a consequence of the

reporting. He asked whether the individual would still be immune from prosecution.

MS. SCHROEDER said if a prosecution could be brought without the evidence provided by the reporting individual, a prosecution [against that person] could be engaged in. However, engaging in those types of prosecutions was rare, she said. Additionally, in response to a previous question regarding the revocation of professional teaching licenses, she clarified that the provision was only applicable to offenses committed on or after the effective date.

REPRESENTATIVE EASTMAN inquired about the meaning of a "lifetime revocation," asking whether the individual could reapply for a new license in the future.

MS. SCHROEDER shared her understanding that a lifetime ban would restrict that person from applying in the future.

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REPRESENTATIVE GRAY expressed his concern about the affirmative defense outlined in subsections (b)(1)-(2) on page 4. He argued that simply asking for someone's age was not a reasonable verification of age, positing that the vast majority of sex trafficking victims would say that they are 18 years old.

MS. SCHROEDER contended that it was a reasonable person standard. Nonetheless, the method of age verification would still need to be presented to the jury.

REPRESENTATIVE GRAY asked whether it would make sense to create a separate bill on labor trafficking. He expressed concern that the legislation, as drafted, may be missing some of the nuances of labor trafficking, as the bill was largely focused on sex trafficking and prostitution.

MS. SCHROEDER said [the bill] was a policy decision made by the administration. She acknowledged that there were "a whole host of things" that could be done with human trafficking, included licensing issues, that were not addressed in the legislation; however, she indicated that the bill was an opportunity to clean up existing statutes on the matter.

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REPRESENTATIVE ALLARD asked for the legal definition of "labor."

MS. SCHROEDER said "labor" was not defined in statute.

CHAIR VANCE pointed out that for the purpose of clarification, the bill separated human trafficking from sex trafficking in statute. Including further nuances of human trafficking, she said, would compel a 60-page bill. She inquired about instances of labor trafficking in Alaska.

MS. SCHROEDER confirmed that human trafficking was not prosecuted as often as sex trafficking. She shared her belief that labor trafficking was an issue in Alaska that thus far, had been addressed through licensing requirements, for example, as opposed to the criminal code.

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REPRESENTATIVE EASTMAN directed attention to the definition of human trafficking in the second degree [Section 7] and asked whether the new language made the provision less restrictive.

MS. SCHROEDER explained that the changes made to the classification of human trafficking mirrored the changes made in the sex trafficking provisions; consequently, the amended language in question mirrored the approach to sex trafficking in the second degree.

REPRESENTATIVE EASTMAN asked whether it was still a crime to obtain a benefit from human trafficking, despite that language being deleted from human trafficking in the second degree.

MS. SCHROEDER said it would depend on how the benefit was obtained.

REPRESENTATIVE EASTMAN inquired about meaning of "intent to promote human trafficking," characterizing the language as "amorphous."

MS. SCHROEDER agreed, defining it as the conscious objective of promoting or furthering human trafficking. She added that [intent] was a mental state that would be determined on a case-by-case basis.

REPRESENTATIVE EASTMAN asked whether a legislator advocating on behalf of human trafficking could be prosecuted under this provision.

MS. SCHROEDER answered, "Absolutely not."

[1:53:10 PM](#)

REPRESENTATIVE GRAY inquired about the language on page 5, lines 9-11.

MS. SCHROEDER explained that language was added to exclude parenting behaviors, such as withholding a pair of jeans until the driveway was shoveled, which could be construed as an exchange for labor.

REPRESENTATIVE GRAY asked whether the language on page 5, lines 12-16 [Sec. 11.41.368. Corroboration of certain testimony not required] applied to children or any person.

MS. SCHROEDER said it applied to anybody. She provided the history of the provision in question.

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REPRESENTATIVE EASTMAN directed attention to page 5, lines 17-22 [Sec. 11.41.369. Forfeiture] and provided a scenario in which a car was borrowed for the purpose of human trafficking. He asked whether the car could be forfeited.

MS. SCHROEDER confirmed that a forfeiture action could be instituted on that property.

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The committee took a brief at-ease from.

[1:57:51 PM](#)

CHAIR VANCE reminded the committee that she did not intend to move the bill out of committee today.

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REPRESENTATIVE EASTMAN directed attention to Section 9 and asked whether the list of actions that constitute "inducing or causing" was exclusive.

MS. SCHROEDER said the list was not all inclusive, adding that an argument could be made for additional conduct that could qualify as inducing or causing. She said the list was intended

to act as a guideline and provide more direction than what was in current law.

REPRESENTATIVE EASTMAN wondered why adult entertainment was listed under inducing or causing.

MS. SCHROEDER stated that adult entertainment and labor was referenced in the human trafficking statutes. She reiterated that the list applied to both sex and human causing, both of which used the term "induce or cause."

REPRESENTATIVE EASTMAN asked whether a person could be guilty of inducing or causing if the act was never inducted.

MS. SCHROEDER said a substantial step in furtherance of the offense could make a person guilty of an attempt.

REPRESENTATIVE EASTMAN considered two scenarios and inquired about the legal liability of each.

MS. SCHROEDER said the conduct would be evaluated on a case-by-case basis.

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REPRESENTATIVE ALLARD Asked "It's almost like if someone solicits for murder, but they don't go through with it. So, recruitment, right?"

MS. SCHROEDER said solicitation could apply to that scenario; however, solicitation was covered under a different set of statutes.

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REPRESENTATIVE GRAY referred to page 11 and sought to confirm that sex trafficking was not subject to the statute of limitations, meaning that that prosecution could be brought forth at any time.

MS. SCHROEDER confirmed that sex trafficking in the first and second degree had no statute of limitations. Alternatively, sex trafficking in the third degree and human trafficking in the third degree had a statute of limitation of 10 years.

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REPRESENTATIVE GRAY inquired about paragraph (b)(2) on page 12, line 11.

MS. SCHROEDER explained that the statute of limitations for any offense not listed under (b)(1) of that section would be five years.

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REPRESENTATIVE C. JOHNSON removed his objection. There being no further objection, Version S was adopted as the work draft.

CHAIR VANCE announced that Version S would be held over.

[2:09:27 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:09 p.m.